

# **EXHIBIT J**

**Becker, Susan M.**

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**From:** Williams, Hilary M. <williamsh@sullcrom.com>  
**Sent:** Sunday, August 6, 2023 6:14 PM  
**To:** David Mitchell; Richard Heimann; Thompson, Tasha N.; Tiffany Kiely; Joe Murray; Brian Murphy; moul@mmmb.com; Jonathan Misny; Jason Forge; Luke Olts; Rachel Cocalis; Ting Liu; Darren Robbins; Mark Solomon; Andrew Hutton; Brian Cochran; Jessica Shinnefield; FirstEnergyRGRD; Matt Alpert; Tom Egler; Tor Gronborg; Ashley Kelly; Kevin Sciarani; Jack Kelley; Omar Keita; Christina Kopko; gjritts@jonesday.com; rfaxon@jonesday.com; sgsozio@jonesday.com; calee@jonesday.com; afmueller@jonesday.com; sscheinberg@jonesday.com; mpduffy@jonesday.com; jbaumann@jonesday.com; tom.warren@warrenterzian.com; ttborland@jonesday.com; rharmanis@jonesday.com; sgoyal@jonesday.com; McCaffrey, John F.; Favret, John A.; Ruttinger, Michael J; Smith, Hannah M.; Webb, Dan; Grimes, Steve; dmansfield@lmng-law.com; michael.kichline@morganlewis.com; laura.mcnally@morganlewis.com; emily.kimmelman@morganlewis.com; karen.pohlmann@morganlewis.com; pburton@orrick.com; bmurphy@orrick.com; jwinter@orrick.com; adam.miller@orrick.com; bpo@santenhughes.com; veronica.callahan@arnoldporter.com; aaron.miner@arnoldporter.com; yiqing.shi@arnoldporter.com; andrew.johnson@arnoldporter.com; jarnold@arnlaw.com; ggossnell@arnlaw.com; ebenshoff@jonesday.com; kberger@jonesday.com; dwallace@taftlaw.com; jmitchell@taftlaw.com; mzbiegien@taftlaw.com; khughesblaum@taftlaw.com; dwarren@bakerlaw.com; crendon@bakerlaw.com; dshively@bakerlaw.com; jdunnaback@bakerlaw.com; risrael@bakerlaw.com; gstamboulidis@bakerlaw.com; katsift@ballardspahr.com; axelrodd@ballardspahr.com; mckeevassalloe@ballardspahr.com; teaberryj@ballardspahr.com; wilsonbm@ballardspahr.com; jfairweather@brouse.com; ldelgrosso@brouse.com; sscholes@mwe.com; phelms@mwe.com; sfenton@mwe.com; vawalton@vorys.com; jmbrunner@vorys.com; apguran@vorys.com; rtrafford@porterwright.com; dbloomfield@porterwright.com; zzExt-Brian.weinstein; zzExt-eric.kim; joshua.shinbrot@davispolk.com; zzExt-shanaye.carvajal; lee.stein@davispolk.com; andrea.michelcic@davispolk.com; daniel.nitzani@morganlewis.com; bcasten@mwe.com; tcoleman@bakerlaw.com; dortiz@bakerlaw.com; tashby@arnlaw.com; ludovicic@taftlaw.com; mjmeyer@vorys.com; bhayes@orrick.com; Eotoole@mwe.com; emily.wheeling@morganlewis.com; Miarmi, Michael J.; Nicolaou, John T.; Sheen, Mike; Richard Texier; Matthew.Fornshell@icemiller.com; Nicole.Woods@icemiller.com  
**Cc:** Giuffra Jr., Robert J.; Nelles, Sharon L.; Rein, David M.J.; Newton, Beth D.; Shields, Kamil R.; Menillo, Nicholas F.; Tom Warren  
**Subject:** RE: [EXT] RE: In re FirstEnergy - Dowling Documents

<<< EXTERNAL EMAIL >>>

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This replies to Lead Plaintiffs' counsel's and Mr. Dowling's counsel's emails on Friday.

FirstEnergy has no objection to adjourning Mr. Dowling's deposition. To recap, as all parties are aware, FirstEnergy objected to Lead Plaintiffs' RFP No. 8 seeking all calendar entries as overbroad, but ultimately agreed (as part of a broader agreement on ESI) to search custodial ESI, including calendar entries, pursuant to the parties' negotiated search terms, custodians, and time period. FirstEnergy produced those calendar entries. FirstEnergy also reproduced calendar entries that were produced in other proceedings pursuant to Lead Plaintiffs' RFP Nos. 1 and 2.

As we have explained, the upcoming production (i) includes non-privileged calendar items, with attachments if applicable, *without* the application of search terms or other limitations, per the agreement reached with Mr. Jones and Mr. Dowling; and (ii) will contain calendar items for January 1, 2016 through December 31, 2020, which extends a year earlier than the time period applied to searches conducted in this action (typically, January 1, 2017 to December 31, 2020). The production will not contain calendar entries prior to 2016, as neither Mr. Dowling nor Mr. Jones requested those entries.

To be clear, FirstEnergy does not agree with Mr. Dowling's characterizations of its earlier productions or any suggestion from any party that its discovery compliance has been insufficient. The parties have long been aware of the agreed upon search criteria applied to FirstEnergy's prior production of calendar entries and have known since July 11 that a broader production of calendar entries would be forthcoming, which FirstEnergy agreed to in the context of resolving numerous requests that Messrs. Jones and Dowling had made in May and June of this year. We then shared pertinent information about the potential scope of that production as soon as feasible. In light of that, we do not agree with Plaintiffs' insinuation that FirstEnergy is belatedly producing documents called for by RFP No. 8 because the forthcoming production covers calendar entries that were **not** captured by the agreed-upon scope of FirstEnergy's response to Plaintiffs' RFP No. 8.

As to Mr. Dowling's request for detail on the substantive content of the productions, again, no search terms or relevance criteria have been applied to the calendar entries. In preparing them for production, we have therefore focused on privilege and confidentiality, not relevance. As we explained, the production will contain approximately 70,000 files custodial to Mr. Dowling and we anticipate that the parties will review those documents and make their own assessment as to relevance. That said, the documents under review cover a year not covered by the previously agreed scope and so could include calendar entries that parties would deem relevant. As to the years covered by the previously agreed search terms, the production covers entries not captured by those search terms that parties may also deem relevant.

Regards,  
Hilary

Hilary M. Williams

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**From:** David Mitchell <DavidM@rgrdlaw.com>

**Sent:** Friday, August 4, 2023 7:17 PM

**To:** Richard Heimann <rheimann@lchb.com>; Williams, Hilary M. <williamsh@sullcrom.com>; Thompson, Tasha N. <thompsons@sullcrom.com>; Tiffany Kiely <tiffany@mmmb.com>; Joe Murray <murray@mmmb.com>; Brian Murphy <murphy@mmmb.com>; moul@mmmb.com; Jonathan Misny <misny@mmmb.com>; Jason Forge <JForge@rgrdlaw.com>; Luke Olts <LOlts@rgrdlaw.com>; Rachel Cocalis <RCocalis@rgrdlaw.com>; Ting Liu <TLiu@rgrdlaw.com>; Darren Robbins <DarrenR@rgrdlaw.com>; Mark Solomon <MarkS@rgrdlaw.com>; Andrew Hutton <DHutton@rgrdlaw.com>; Brian Cochran <BCochran@rgrdlaw.com>; Jessica Shinnefield <jshinnefield@rgrdlaw.com>; FirstEnergyGRD <FirstEnergyGRD@rgrdlaw.com>; Matt Alpert <MAlpert@rgrdlaw.com>; Tom Egler <TomE@rgrdlaw.com>; Tor Gronborg <TorG@rgrdlaw.com>; Ashley Kelly <AshleyK@rgrdlaw.com>; Kevin Sciarani <KSciarani@rgrdlaw.com>; Jack Kelley <JKelley@rgrdlaw.com>; Omar Keita <OKeita@rgrdlaw.com>; Christina Kopko <CKopko@rgrdlaw.com>; gjritts@jonesday.com; rfaxon@jonesday.com; sgsozio@jonesday.com; calee@jonesday.com; afmueller@jonesday.com; sscheinberg@jonesday.com; mpduffy@jonesday.com; jbaumann@jonesday.com; tom.warren@warrenterzian.com; ttborland@jonesday.com; rharmanis@jonesday.com; sgoyal@jonesday.com; john.mccaffrey@tuckerellis.com; john.favret@tuckerellis.com; michael.ruttinger@tuckerellis.com; hannah.smith@tuckerellis.com; dwebb@winston.com; sgrimes@winston.com; dmansfield@lmng-law.com; michael.kichline@morganlewis.com; laura.mcnally@morganlewis.com; emily.kimmelman@morganlewis.com; karen.pohlmann@morganlewis.com; pburton@orrick.com; bmurphy@orrick.com; jwinter@orrick.com; adam.miller@orrick.com; bpo@santenhughes.com;

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**Cc:** Giuffra Jr., Robert J. <giuffrar@sullcrom.com>; Nelles, Sharon L. <Nelless@sullcrom.com>; Rein, David M.J. <reind@sullcrom.com>; Newton, Beth D. <newtonb@sullcrom.com>; Shields, Kamil R. <shieldska@sullcrom.com>; Menillo, Nicholas F. <Menillon@sullcrom.com>; Tom Warren <tom.warren@warrenterzian.com>

**Subject:** [EXTERNAL] RE: [EXT] RE: In re FirstEnergy - Dowling Documents

Hilary,

Is your client still producing relevant calendar entries and expense reports? If so, are you saying that plaintiffs have not propounded an RFP which seeks such documents? We requested these documents in our March 28, 2022 Second Set of Requests for Production at Request 8, seeking – “Diaries, daybooks, calendars, appointment books, telephone logs, telephone bills and call or text message detail records (local, long distance, and cellular), time sheets, expense reports, and visitor logs maintained by or for each of the Individual Defendants, and each current or former FirstEnergy officer, director, or employee identified in any Defendant’s Fed. R. Civ. P. 26(a)(1) disclosures.” Please explain why these relevant documents still have not been produced.

Thanks,

David

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**From:** Heimann, Richard M. <[rheimann@lchb.com](mailto:rheimann@lchb.com)>

**Sent:** Friday, August 4, 2023 1:37 PM

**To:** 'Williams, Hilary M.' <[williamsh@sullcrom.com](mailto:williamsh@sullcrom.com)>; Thompson, Tasha N. <[thompsonatas@sullcrom.com](mailto:thompsonatas@sullcrom.com)>; Tiffany Kiely <[tiffany@mmmb.com](mailto:tiffany@mmmb.com)>; Joe Murray <[murray@mmmb.com](mailto:murray@mmmb.com)>; Brian Murphy <[murphy@mmmb.com](mailto:murphy@mmmb.com)>; [moul@mmmb.com](mailto:moul@mmmb.com); Jonathan Misny <[misny@mmmb.com](mailto:misny@mmmb.com)>; Jason Forge <[JForge@rgrdlaw.com](mailto:JForge@rgrdlaw.com)>; Luke Olts <[LOlts@rgrdlaw.com](mailto:LOlts@rgrdlaw.com)>; Rachel Cocalis <[RCocalis@rgrdlaw.com](mailto:RCocalis@rgrdlaw.com)>; Ting Liu <[TLiu@rgrdlaw.com](mailto:TLiu@rgrdlaw.com)>; Darren Robbins <[DarrenR@rgrdlaw.com](mailto:DarrenR@rgrdlaw.com)>; Mark Solomon <[MarkS@rgrdlaw.com](mailto:MarkS@rgrdlaw.com)>; Andrew Hutton <[DHutton@rgrdlaw.com](mailto:DHutton@rgrdlaw.com)>; Brian Cochran <[BCochran@rgrdlaw.com](mailto:BCochran@rgrdlaw.com)>; David Mitchell <[DavidM@rgrdlaw.com](mailto:DavidM@rgrdlaw.com)>; Jessica Shinnefield <[jshinnefield@rgrdlaw.com](mailto:jshinnefield@rgrdlaw.com)>; FirstEnergyGRD <[FirstEnergyGRD@rgrdlaw.com](mailto:FirstEnergyGRD@rgrdlaw.com)>; Matt Alpert <[MAlpert@rgrdlaw.com](mailto:MAlpert@rgrdlaw.com)>; Tom Egler <[TomE@rgrdlaw.com](mailto:TomE@rgrdlaw.com)>; Tor Gronborg <[TorG@rgrdlaw.com](mailto:TorG@rgrdlaw.com)>; Ashley Kelly <[AshleyK@rgrdlaw.com](mailto:AshleyK@rgrdlaw.com)>; Kevin Sciarani <[KSciarani@rgrdlaw.com](mailto:KSciarani@rgrdlaw.com)>; Jack Kelley <[JKelley@rgrdlaw.com](mailto:JKelley@rgrdlaw.com)>; Omar Keita <[OKeita@rgrdlaw.com](mailto:OKeita@rgrdlaw.com)>; Christina Kopko <[CKopko@rgrdlaw.com](mailto:CKopko@rgrdlaw.com)>; [giritts@jonesday.com](mailto:giritts@jonesday.com); [rfaxon@jonesday.com](mailto:rfaxon@jonesday.com); [sgsozio@jonesday.com](mailto:sgsozio@jonesday.com); [calee@jonesday.com](mailto:calee@jonesday.com); [afmueller@jonesday.com](mailto:afmueller@jonesday.com); [sscheinberg@jonesday.com](mailto:sscheinberg@jonesday.com); [mpduffy@jonesday.com](mailto:mpduffy@jonesday.com); [jbaumann@jonesday.com](mailto:jbaumann@jonesday.com); [tom.warren@warrenterzian.com](mailto:tom.warren@warrenterzian.com); [ttborland@jonesday.com](mailto:ttborland@jonesday.com); [rharmanis@jonesday.com](mailto:rharmanis@jonesday.com); [sgoyal@jonesday.com](mailto:sgoyal@jonesday.com); [john.mccaffrey@tuckerellis.com](mailto:john.mccaffrey@tuckerellis.com); [john.favret@tuckerellis.com](mailto:john.favret@tuckerellis.com); [michael.ruttinger@tuckerellis.com](mailto:michael.ruttinger@tuckerellis.com); [hannah.smith@tuckerellis.com](mailto:hannah.smith@tuckerellis.com); [dwebb@winston.com](mailto:dwebb@winston.com); [sgrimes@winston.com](mailto:sgrimes@winston.com);

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**Subject:** RE: [EXT] RE: In re FirstEnergy - Dowling Documents

#### EXTERNAL SENDER

Can you disclose who the "governmental authorities" are?

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**From:** Williams, Hilary M. <[williamsh@sullcrom.com](mailto:williamsh@sullcrom.com)>

**Sent:** Friday, August 4, 2023 8:12 AM

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**Subject:** [EXT] RE: In re FirstEnergy - Dowling Documents

Counsel,

We were informed last night that Plaintiffs did not agree to Mr. Dowling's request to adjourn his deposition until after the production of calendar entries and expense reports that, as we advised earlier this week, we anticipate completing by August 31. We understand that the dispute over the scheduling of Mr. Dowling's deposition will be raised with the Court early next week. In light of these developments, we confirmed this morning that we may disclose to the parties that certain governmental authorities have requested the production of the entire contents of iPad and iPhone devices used by Mr. Jones or Mr. Dowling from January 1, 2016 through December 31, 2020. In keeping with the protocol in this matter, those documents will be produced to all parties, and we expect to do so at approximately the same time that production is made to the requesting governmental authorities. Mr. Dowling and Mr. Jones used more than a dozen devices during the relevant time period, and processing and reviewing the contents of those devices requires substantial processing time and then time to review for confidentiality and privilege. We are working to complete the review as quickly as possible, and expect to make these productions on or about September 15, 2023.

Regards,  
Hilary

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**Subject:** In re FirstEnergy - Dowling Documents

Counsel,

We write to advise all parties of upcoming productions in response to requests from Messrs. Jones and Dowling that will include a significant volume of documents. In response to Lead Plaintiffs' Request for Production No. 8 ("RFP No. 8"), and consistent with its responses and objections and the parties' negotiations over production of ESI, FirstEnergy has previously produced calendar items and expense reports custodial to Messrs. Dowling and Jones that were identified using agreed-upon search parameters. As the parties know, on June 5, 2023, Messrs. Jones and Dowling requested that FirstEnergy produce all of their respective calendar entries and expense reports for the time period January 1, 2016 through July 21, 2020 in response to RFP No. 8, regardless of relevance or search terms. During the all-party meet and confer on July 11, we confirmed that FirstEnergy had agreed to this request, and was engaged in processing and reviewing those documents for confidentiality and privilege prior to production. In the interim, we have proceeded with this review.

We are providing notice today of the anticipated timing and volume of this production. At this point, FirstEnergy anticipates producing at least 70,000 calendar entries custodial to Mr. Dowling alone. Although we are working to produce the documents as quickly as possible, given the time needed to finalize the review, as well as the substantial time needed to process this volume of documents, we do not anticipate that the documents will be produced prior to Mr. Dowling's currently scheduled deposition. We currently expect to be able to produce the documents custodial to Mr. Dowling by August 31, although we are making every effort to do so more quickly.

Regards,  
Tasha

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